

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ERNEST MEDINA,

)

8:14CV301

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Plaintiff,

)

)

v.

)

**MEMORANDUM  
AND ORDER**

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MICHAEL THURBER,

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)

Defendant.

)

This matter is before the court on Plaintiff's request for leave to amend his Complaint. (Filing No. [17](#).) Plaintiff seeks the court's leave to "add defendants and cure any and all defects found" in his original Complaint.

Rule 15 of the Federal Rules of Civil Procedure provides "[t]he court should freely give leave [to amend] when justice so requires." [Fed. R. Civ. P. 15\(a\)\(2\)](#). The applicable standard is summarized in [Foman v. Davis, 371 U.S. 178, 182 \(1962\)](#), which states:

If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claims on the merits. In the absence of any apparent reason—such as undue delay, bad faith or dilatory motive on the part of the movant, . . . undue prejudice to the opposing party by virtue of the allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be "freely given."

*Id.* In addition, Nebraska Civil Rule 15.1 provides that "[a] party who moves for leave to amend a pleading (including a request to add parties) must file as an attachment to the motion an unsigned copy of the proposed amended pleading that clearly identifies the proposed amendments." [NECivR 15.1\(a\)](#). In pro se cases, the court may consider an amended pleading as supplemental to the original pleading.

[NECivR 15.1\(b\)](#).

Plaintiff did not file a copy of his proposed amended complaint. In addition, his request for leave to amend does not provide the information necessary for the court to consider whether to allow Plaintiff to amend his Complaint.

IT IS THEREFORE ORDERED that: Plaintiff's Motion (Filing No. [17](#)) is denied without prejudice to reassertion upon the filing of a proposed amended complaint. The next step in Plaintiff's case will be for the court to conduct an initial review of Plaintiff's claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#). The court will conduct this initial review in its normal course of business.

DATED this 13th day of January, 2015.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge

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